

4/9/07
(3)

BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING

September 25, 2006

**High School Library
7:00 P.M.**

Present: Chairman Foster, Andrew Magee, Lauren Rosenzweig, Peter Ashton, Dore' Hunter.
The Assistant Town Manager was present. The meeting was televised.

CITIZENS' CONCERNS

Ann Chang spoke about the Moving of the polling locations noting that it is a disincentive to vote. She felt that the Blanchard School was not a good location, and it ruined the precinct concept.

Walter asked if there were anyway to reverse it. John said that all things were printed perhaps we could do it at the next election. March is the next election.

Dore' noted the pressure to get it out of the schools. He felt that this meeting place doesn't work he would be happy to go back to the original locations.

Allen Nitschelm, 9 Marian Road, Representing Finance Committee asked about the Fire Overtime overview of policies, had they looked into these issues? He asked about the Policy for Fire Department sick time. He noted that we should be reviewing this at the 6 month period as planned. Walter will present the findings to the entire Fincom including all the Fire issues in the next two weeks.

Allen asked about Unfunded Pension Policies. Walter noted we belong to the Middlesex Retirement group. We have been involved in law suits to get the pension issues straightened out. We lost 40 Million Dollars. We have been trying to alert others to this problem.

John Murray is on the MMA working on reforms to the pension system. Walter noted that a number of candidates for Governor have raised these issues during this race.

SEWER COMMISSIONERS' BUSINESS

None

PUBLIC HEARINGS & APPOINTMENTS

OPERATIONAL MINUTE – None

ACTON WINE & SPIRIT COMPANY – Steve Zeitler spoke about a question on the ballot that would allow stores that sell food the ability to sell Wine which is on the Ballot. He asked the Board to vote no on question one. The Police Chief is against this because of enforcement issues. Stop and Shop is spear-heading this legislation. Dore' noted that it will be an enforcement issue.

Peter asked for a the sense of the Board to opposing this legislation. We don't usually take positions on ballot questions. He suggested we may want to do this. Dore' did not know if the Board should take a position. Andy agreed with Dore' with enforcement and other issues. The Board agreed to not take a position and leave it up to the voters, noting that it would cost more for the Town to enforce if it went through. Lauren thanked them for bringing this issue forward and she will look into this further.

VERIZON CABLE TV SERVICE LICENSE HEARING – John said that negotiations are ongoing and asked for a continuation to a Special Meeting on Tuesday, October 3, at 7:30 p.m. and asked the Asst. will book a room and put it on the Web. DORE' HUNTER -Moved to hold a Special meeting, 7:30 Oct 3, in the Memorial Library on Verizon License. ANDREW MAGEE, Second. UNANIMOUS VOTE

MINUTEMAN VOCATIONAL TECHNICAL SCHOOL – CAPITAL PLAN – Mr. Markum spoke about the need to review statutes that may need to be adopted. These are mostly housekeeping. They completed a large fiscal audit which brought them to light and the Statute requires the 16 towns to sign off on these revolving accounts. They have a revolving account for the food service program, they are self funded. They also have hair salon, automotive and auto body. They need to keep the income raised through services separate. Those accounts are allowed to exist beyond a fiscal year. They are asking the Board to endorse the committee to maintain the revolving accounts. Peter asked about the annual report and asked that we get one going forward. DORE' HUNTER – Moved to hereby approve the action of the Minuteman Regional School Committee in its acceptance of provisions of MGL Chapter 74 Section 14B with regard to reauthorization of vocational technical program revolving funds held by the Minuteman Regional Vocational Technical School District. LAUREN ROSENZWEIG - second. UNANIMOUS VOTE.

The Capital plan is still in its infancy and they are working at pulling together a structure to sit and help them ascertain the future of the School. They will be looking at it from top to bottom. Mr. Markum noted we wouldn't see anything or report for at least two fiscal years. They have not put pens to paper or dollars the facility demands are many as the building opened in 1974, so the school is worn.

SITE DEVELOPMENT PLAN 7/11/06-409, 288 MAIN STREET, EDWARD BRAVO (CONTINUED FROM SEPT. 11) – The applicant has asked for more time to review questions. WALTER FOSTER - Moved to continued to October 16 at 7:15 - DORE' HUNTER - second UNAIMOUS VOTE

SITE DEVELOPMENT PLAN #07/06/06-408, 124 MAIN STREET, FRANK CHEN – Mr. Chen's consultant gave an overview of the issues surrounding this plan. They have worked with Garry Rhodes and he is presenting the reworked plan. They are adding 10 parking spots and will beautify this location; they want to save the tree. He noted review by Garry Rhodes and the need to address these issues. Mr. Chen is using the shed now and thought it was his right to use it. The sidewalk will be limited pavement, they do exist currently. They have shown pea stone, however it is not ADA Compliant. Mr. Chen suggested a wooden ramp. HDC has been working with them and they will continue to work with them.

Lauren thanked Mr. Chen for his efforts to redevelop the area and said that as we go forward it is important they keep in contact with the HDC. She asked about the sidewalk plan and HDC asked that the retaining wall be field stone and that the guard rails be wood beam. There are legal concerns about the property lines and the use of the shed. She asked if Counsel could review this. She asked Brian Bendig about HDC guidance on the raised pavement and landscape strip. She asked for HDC suggestions. HDC did not think the brick planter was historically appropriate. They see the seating area as aesthetic.

Peter was concerned about the shed use by Mr. Chen; it needs to be resolved who owns the shed. Garry is suggesting it be demolished and needs recommendation on what is to be done. The shed is used for storage space for the shop. They need the shed for storage and would like to continue to use it. Peter suggested we lease to Mr. Chen the shed for \$1.00 per year. It was noted that we do not set a precedent in this case. Dore' agreed it is to be referred to Counsel to work out as this is not part of the site plan. Dore' noted the survey and actions to clean up the deed error should be handled. Andy noted that we work with the applicant to address these issues. There is enough land to accommodate the sewer station maintenance area and the shed. LAUREN ROSENZWEIG – Moved to take under advisement. ANDREW MAGEE, second. UNANIMOUS VOTE.

ENTERTAINMENT LICENSE, 124 MAIN STREET, FRANK CHEN – Mr. Chen talked about creating an environment for music; students could play on weekends under the tree. The Board noted Garry Rhodes comments and suggested that they get one day license each time in order not to violate the zoning bylaw. Peter and Dore' thought this was a good idea. Dore' suggested he contact Garry and the Police Chief. It was noted that his \$50.00 fee be returned as the Town does not charge for one day entertainment permits.

COMPREHENSIVE PERMIT (40B) LIP, 19 BULETTE ROAD, JOSEPH PITTORINO – Atty. Sheryl Gould gave an overview of the proposal of dividing the existing lot into two and the two proposed units will share a septic system. Mr. Pittorino owns the property with the house on it already as well as the land to site the new homes. One of the units will become an affordable lottery home, and will pay 1/3 of the septic system maintenance and the Market price unit will be paying 2/3 on the septic. She noted that it is quite wooded on the property. Lillian Road homes are mostly ranches and small capes and there are nine families living on Lillian. They propose two split entry design, they moved toward a ranch style. They want to have a build out of 120 days and this proposal also incorporates Smart Growth. The homes will be at the end of the Lillian Cul-de-sac.

The Town of Littleton will provide the water and a hydrant. Drainage is a primary concern. It is the opinion of the engineer that there will be no run off, it will be controlled on site, and will not add any further water concerns.

They have not had other comments except that they address the possible run off and snow containment/storage.

Lauren questioned the septic system. It is a higher quality installation. She asked about taking down of trees on the site, with Route 2 and noise concerns. None of the forested area will be cut down. The proposed drive way will run over the utility easement. She asked if this has been before the Planning Board. Attorney Gould noted she spoke with Roland and he said he reviewed the project and had no questions or concerns.

Andy too liked the unit plan and he visited the site and he felt they could be worked out.

Dore' noted the ACHC letter talking about drainage; this could be mitigated by the developer to some extent. The engineer explained the drainage issues on the other side of the cul-de-sac that experiences run off down a Lillian Road resident's driveway. This is not part of the projects scope. They do have a pond to control the runoff and they will put a vegetated swale and could tie in to their drainage and eliminate some of the Bulette Road water issues. The Board suggested they widen the swale.

Peter noted some issues that needed to be resolved until he could approve and he had questions about the affordable housing issue. He also asked about the septic issue of shared system. The Board of Health wanted them to share the 6 bedroom system. He also noted the pro forma spread sheet. The existing home is \$745,000. Sherry Gould feels that they will need an updated appraisal to reflect the market. Nancy Tavernier noted the policy has been worked on for the past two years. ACHC stands on its memo and recommendation, the redeeming policy is the one family home that makes it special.

Mrs. Lee 12 Lillian Road noted that they have drainage problems in that area already. She spoke about the trees to be removed. She was concerned about the development

Rick Gentilman, 5 Lillian spoke about the subdivided lot and estimate will leave ½ for two houses. They also looked at the application and noted inconsistency for Smart Growth; he noted that they only had two or three items applicable under Smart Growth.

Eleanor Gentilman, 5 Lillian spoke about affordable housing and their issues with the site.

Christine, 22 Bulette and spoke about the drainage and the driveway and asked if this was going to make things better.

David Lee 12 Lillian Road – Questioned the house already constructed.

Charles Davis, Bulette Road – He feels it gives a family the ability to down size; they will have to build a drainage area. Mr. Davis feels these homes are in the wrong location.

The Board will be asked to sign a letter of support for the applicant. Peter is not prepared to act tonight and would like to see more of the Pro forma. He would like to continue to work with the developer.

Dore' felt the same way as Peter; he was concerned about the water problem.

Andy spoke about friendly vs. unfriendly 40B LIP. He feels the drainage is very solvable. It needs to be made friendly and gain some support of the neighbors.

Lauren noted that this project was prepared before the Comprehensive Policy was approved.

SITE PLAN 02/19/03-388, POWDER MILL ROAD, AUTOPLEX REALTY - Andy spoke about the site plan Orders of Conditions that have a different layout that is before us now. He noted the concept of the fence and trying to come to a place for the applicant go forward with his vision and retain green space. The applicant has changed the fence location and has also put pavement areas and gravel walk ways. A bond of \$5,000 could be put in place.

Nylen, Attorney for Mr. Bertolami agreed to Andy's comments and if they are unable to change the location with DEP and Cons Com it will have to relocate to the original location. An occupancy permit needs to be obtained before site usage. They would prefer to have a bond on condition four (3). They have no problem with how it has been written. Peter asked about the cost to comply with 2 or 3. In the event Cons Com denial, it will cost several thousand to move the fence and gravel.

Lauren asked John about cash bond vs. cash, ease of recovery is the issue. We do like cash and will keep the passbook and urged that the Board ask for cash, but allow all interest and income on it to go to Mr. Bertolomi. They restrict the account so that John is the only one who can withdrawal funds.

WALTER FOSTER – MOVED to adopt condition with language of cash instead of bond and revise paragraph 4. LAUREN ROSENZWEIG – second. UNANIMOUS VOTE

BOSTON EDISON VERIZON JOINT POLE LOCATION HEARING (CONTINUED FROM SEPT. 11) John suggested that they discuss this Tuesday. Dore' noted we have already voted with conditions. John said that they will meet all conditions. ANDREW MAGEE – Moved to approve. PETER ASHTON – second. UNANIMOUS VOTE

SELECTMEN'S BUSINESS

FLAG LOWERING POLICY- John was asked to give the Board of the Selectmen an overview. Dore' noted that he could better review as he was the one that asked that Board to review the request. Jim Ettwine and Dick Krug were present to discuss their request. They want to have someone you can call to have the flag lowered in the center. Concord has the Funeral Director make the call to lower the flag. Dore' felt it was something we should do and to have the policy prepared to address this. Andy asked about residents, former residents, would it be for Veterans' being interned here in Acton on the day of internment. Flags to be lowered are at the Center Monument, Town Hall and Cemetery. Staff to obtain a copy of Concord's Policy and prepare one for Acton's use.

SUBURBAN MOBILITY DRAFT GRANT LETTER OF INTEREST- Lauren updated the Board on the possibility of getting a shuttle which will address getting people to the train station, reverse commute, school aged children to be picked up and households with older people that may need this type of transportation. Dore' noted that this is an excellent idea. Staff was asked to prepare the letter for signature.

QUARRY ROAD ACCESS EASEMENT AGREEMENT- REVISITATION OF YIN AND CREIGHTON PEET'S PROPERTY AT QUARRY ROAD. The Peet's have a legal right to pass over town property. They have come to agreement with the Peet's the size of the access has allowed the Town to take water from the quarry for NARA recharge. The Town can pass over the Peet property for land we are looking at buying. PETER ASHTON – Moved to approve. DORE' HUNTER – second. UNANIMOUS VOTE. Andy thinks that this easement exists already and it crosses over our property and other owner's property. They have an easement across this land and that we are getting something out of it. We could have gotten more if Town Meeting had more faith. John asked that Don be allowed to wrap it up with the Peet's regarding the three issues. If they are significant changes the Board will discuss on Tuesday.

HOLLOW BONES SACRED ORDER, WILLIAM CADY- Fee Waiver Request for concert at NARA. PETER ASHTON - Moved to approve. DORE' HUNTER – second. John asked that any out of our pocket expenses not be waived and the Bond be provided by Mr. Cady. The Motion was changed to reflect the concerns of the Assistant Town Manager.

OTHER BUSINESS

Walter Foster asked to speak about Mr. Sawyer's sun setting from the Board of Appeals. Mr. Sawyer will serve out the term until the 40 B Blanchard Place is closed and completed. WALTER FOSTER - Moved that Mr. Sawyer be reappointed to finish out the Blanchard Place 40 B. retroactive to August, 2006. .DORE' HUNTER – second, UNANIMOUS VOTE

Walter Foster updated the Board on the Morrison Farm Committee and that they will be finishing up on Wednesday.

Lauren noted her attendance at the Crown Resistance and how nice a time she had.

Dore' noted that Crosby Corner has slipped to 2009 and Route 2 Circle should have a consultant hired by now. They will start the 25% Design.

Peter asked to have a State of the Town Meeting discussion included on the October 16 Board Meeting, and to further discuss possibility of having other items besides the Capital Plan on the agenda for the STM.

Peter asked about the status of our new hires.

CONSENT AGENDA

Lauren asked that the decision on site plan for McDonalds Item 16 to be held for discussion.

PETER ASHTON – Moved to approve the Consent Agenda with the exception of Lauren's concern. DORE' HUNTER – second. UNANIMOUS VOTE. Lauren asked about car lights and screening headlights. The Board said that it will require a review of the building and lighting. DORE' HUNTER – Moved to approve the draft decision. PETER ASHTON – second, UNANIMOUS VOTE with Selectmen Foster noting that he was abstaining as he was not present at the hearing.

TOWN MANAGER'S REPORT

None

EXECUTIVE SESSION

Lauren Moved to go in to Executive Session to discuss real property and strategy in litigation. Roll was taken All Ayes.

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Recording Secretary

Clerk, Board of Selectmen

Date:

BOARD OF SELECTMEN & SEWER COMMISSIONERS'
MEETING AGENDA
SEPTEMBER 25, 2006

The Acton Boxborough Regional High School Library
7:00 PM

I. CITIZENS' CONCERNS

II. SEWER COMMISSIONERS' BUSINESS

(None scheduled)

III. PUBLIC HEARINGS AND APPOINTMENTS

1. 7:02 OPERATIONAL MINUTE

The Town Manager will give the Board a brief update on various topics.

2. 7:05 ACTON WINE & SPIRIT COMPANY

Mr. Zeitler, President of Acton Wine & Spirit Company will be in to discuss the enclosed materials.

3. 7:15 VERIZON CABLE TV SERVICE LICENSE HEARING (CONTINUED)

Enclosed please find materials in the subject regard.

4. 7:45 MINUTEMAN REGIONAL VOCATIONAL TECHNICAL SCHOOL

Mr. Thomas Markham, Asst. Superintendent, will present to discuss the enclosed materials.

5. 8:00 SITE DEVELOPMENT PLAN #07/11/06-409, 288 MAIN STREET, EDWARD BRAVO (FOSTER) (CONTINUED FROM SEPTEMBER 11)

The petitioner has requested a further continuance of this hearing to October 16, at 7:15 p.m.

6. 8:15 SITE DEVELOPMENT PLAN #07/06/06-408, 124 MAIN STREET, FRANK CHEN (ROSENZWEIG) (CONTINUED FROM SEPTEMBER 11)

Enclosed please find materials in the subject regard.

7. 8:25 ENTERTAINMENT LICENSE, 124 MAIN STREET, FRANK CHEN

Enclosed please find materials in the subject regard.

8. 8:30 **COMPREHENSIVE PERMIT (40B) LOCAL INITIATIVE PROJECT (LIP), 19 BULETTE ROAD, JOSEPH PITTORINO**
Enclosed please find materials in the subject regard.
9. 9:00 **SITE DEVELOPMENT PLAN #02/19/03-388, 60 POWDER MILL ROAD, AUTOPLEX REALTY**
Enclosed please find materials in the subject regard.
10. 9:15 **BOSTON EDISON/VERIZON JOINT POLE LOCATION HEARING (CONTINUED FROM SEPTEMBER 11)**
Representatives of Boston Edison will be present to respond to Board questions, as requested by the Board on September 11.

IV. SELECTMEN'S BUSINESS

11. **FLAG LOWERING POLICY**
Enclosed please find a request from Selectman Hunter, for Board consideration.
12. **SUBURBAN MOBILITY GRANT DRAFT LETTER OF INTEREST**
Enclosed please find materials from Selectman Rosenzweig, for Board consideration.
13. **QUARRY ROAD ACCESS EASEMENT AGREEMENT**
Enclosed please find material in the subject regard, for Board consideration.
14. **HOLLOW BONES SACRED ORDER, WILLIAM CADY**
Enclosed please find a request for a fee waiver, for Board consideration.
15. **OTHER BUSINESS**

V. CONSENT AGENDA

16. **SITE PLAN SPECIAL PERMIT #06/09/06-407, 55 GREAT ROAD, MCDONALD'S USA, LLC. (HUNTER)**
Enclosed please find a draft decision, for Board Consideration.
17. **CABLE FUND EXPENDITURE REQUEST**
Enclosed please find materials responding to questions raised on September 11, related to the subject request

18. CROWN RESISTANCE DAY PROCLAMATION

Enclosed please find material in the subject regard, for Board consideration.

19. WATER RESOURCES ADVISORY COMMITTEE, ASSOCIATE MEMBER APPOINTMENTS

Enclosed please find four appointment slips for non-voting Associate Members, for Board consideration.

20. ACCEPT GIFT, POLICE DEPARTMENT

Enclosed please find a gift of \$229.00 from Donelan's Market for the D.A.R.E. Program, for Board consideration.

VI. TOWN MANAGER'S REPORT

VII. EXECUTIVE SESSION

21. There will be a need for Executive Session.

Enclosed please find materials for Board consideration.

ADDITIONAL INFORMATION

Enclosed please find additional correspondence that is strictly informational and requires no Board action.

FUTURE AGENDAS

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This is not a complete agenda.

October 16

October 30

November 13

November 27

December 11

December 18

GOALS 2006-2007

1. Morrison Farm Development Recommendation (Foster)
2. Monitor Labor Negotiations (Ashton)
3. Policy Review/Improve Inter-Board Communication (Foster)
4. ALG process to be used for purpose of Budget Planning for FY08 (Foster/Magee)
5. Middlesex Pension Alternatives (Ashton)